UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,273	01/23/2004	Chikara Morisada	00862.023439.	5785

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EXAMINER
KIM, PAUL

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
07/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 April 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 7-9* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2, 4-5 and 7-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office action is responsive to the following communication: Request for Continued

Examination filed on 11 April 2007.

2.   Claims 1-5 and 7-9 are pending and present for examination. Claims 1 and 7 are in

independent form.

Continued Examination Under 37 CFR 1.114

3.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible

for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been

timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR

1.114. Applicant's submission filed on 11 April 2007 has been entered.

Response to Amendment

4.   Claims 1, 3-4, and 7-9 have been amended.

5.   Claim 6 has been cancelled.

6.   No claims have been added.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented
> and the prior art are such that the subject matter as a whole would have been obvious at the time
> the invention was made to a person having ordinary skill in the art to which said subject matter
> pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   **Claims 1-2, 4-5 and 7-8** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Frolik et al (U.S. Patent No. 7,149,783, hereinafter referred to as Frolik), filed on 12 April

2001, published on 17 October 2002, and issued on 12 December 2006, in view of Stumm (U.S.

Patent No. 5,768,528), filed on 24 May 1996, and issued on 16 June 1998.

9.   **As per independent claims 1, 7, and 8,** Frolik, in combination with Stumm, discloses:

A method of controlling a server apparatus which stores in a memory image data received via a network, comprising the steps of:

setting a disclosure date {See Frolik, C1:L19-20, wherein this reads over "information is delivered only within certain 'dated content' constraints"; C3:L67-C4:L17, wherein this reads over "using the publisher-specified delivery rule, including the delivery parameter, the current date (T_{now}), the sign-up date (t_0), and the maximum available issue number (N_{max}), the process at the server calculates the 'publisher's current issue' ($N_{publisher}$)"} of the received image data {See Stumm, C3:L65-C4:L4, wherein this reads over "data files may include files containing information representing clip audio/video images and photographs"};

processing the received image data so as to create processed image data {See Frolik, C2:L35-38, wherein this reads over "the sequential information can only be delivered as a portion, a single issue, in the sequence and only be delivered in a particular time frame"};

comparing a time ticked in the server apparatus and the set disclosure date {See Stumm, C6:L3-46, wherein this reads over "sever system calculates the offset time necessary to synchronize the subscriber's local time with a publisher's reference time"};

creating Web page information linked to the processed image data when the time ticked in the server apparatus is determined to be earlier than the set disclosure date {See Frolik, C5:L7-10, wherein this reads over "[t]he publication server process that fiels issue retrieval requests uses an algorithm or mechanism to construct, given a specific issue number, the appropriate locator needed to retrieve the actual issue content"}, and creating Web page information linked to the received image data when the time ticked in the server apparatus is determined to be the set disclosure date {See Frolik, C4:L42-47, wherein this reads over "[i]f the subscriber's issue number was successfully incremented, the incremented value is used to construct a locator (e.g., a URL or filename) (step 111) for the corresponding issue of content, and the issue is then delivered to the subscriber"}; and

transmitting, via the network, the created Web page information linked to the processed image data before the set disclosure date {See Frolik, C5:L11-13, wherein this reads over "the subscriber's personal issue number is used to construct the locator for the issue to be delivered"}, and transmitting the created Web page information linked to the received image data on the set disclosure date, to a specified recipient {See Frolik, C4:L42-47, wherein this reads over "[i]f the subscriber's issue number was successfully incremented, the incremented value is used to construct a locator (e.g., a URL or filename) (step 111) for the corresponding issue of content, and the issue is then delivered to the subscriber"}.

While Frolik may not expressly disclose that the publications may take the form of images,

Stumm discloses that the generated publications do indeed contain information containing images

and photographs.

Therefore, in light of the aforementioned disclosures by Frolik, it would have been
obvious to one of ordinary skill in the art at the time the invention was made to modify the above
invention suggested by Frolik by combining it with the invention disclosed by Stumm. The results
of this combination would lead to a method wherein a publication containing a series of images
(i.e. image data), is received and processed such that the images are sequentially published to
subscribers over a periodic interval of time. Furthermore, the image publications are handled in
such a way that the subscribers are provided URL links to the appropriate image as designated
and set by the disclosure date.

One of ordinary skill in the art would have been motivated to do this modification such
that a subscription/publication system could publish the appropriate publications according to the
disclosure date such that publications are not published before their disclosure dates.

10.   **As per dependent claim 2,** Frolik, in combination with Stumm, discloses:

> The method according to claim 1, wherein said processing step creates a
> plurality of processed image data {See Frolik, C2:L26-31, wherein this reads over "a
> multi-issue publication"}, and further comprising a step of setting a level of
> processing performed for the received image data to create each process
> image data {See Frolik, C4:L59-C5:L3}.

11.   **As per dependent claim 4,** the Examiner takes Official Notice that it would have been
common and widely-known to one of ordinary skill in the art that the same address in the
network can be assigned for different image data. That is, it is common and widely-known to
one of ordinary skill in the art that a Web page can contain scripting which points to different
image data according to the server time. Therefore, wherein the Web page can contain scripting
to facilitate in the publication of select image data, the address of the Web page need not be
different for each image data.

12.   **As per dependent claim 5,** the Examiner takes Official Notice that it would have been
common and widely-known to one of ordinary skill in the art that image processing may include
mosaic processing, emboss processing, and wipe processing.

Allowable Subject Matter

13.   Claims 3 and 9 would be allowable if rewritten to overcome the rejection(s) set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

14.   Applicant's arguments with respect to claims 1-5 and 7-9 have been considered but are moot in view of the new ground(s) of rejection.
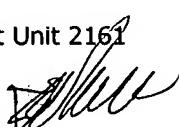
Conclusion

15.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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TECH Center 2100

SAM RIMELL
PRIMARY EXAMINER